d)   thereafter, maintaining said plasma and biasing said plasma toward said substrate to

deposit a second layer of said film over said first layer.

Applicants respectfully contend that claims 17-22 and 32-35, which are

computer-related inventions, are allowable based upon the allowance of claim 33 pursuant to

MPEP section 2106. In this section it states that were an apparatus claim to encompass "<u>any</u>

<u>and every</u> computer implementation of a process, when read in light of the specification, the

claim should be examined on the basis of the underlying process." (See MPEP § 2101,

emphasis in the original). That section continues with an example of such an apparatus claim.

Such a claim will:

(a)   define the physical characteristics of a computer or computer component
exclusively as functions or steps to be performed on or by a computer, and

(b)   encompass any and every product in the state class (e.g., computer, computer-
readable memory) configured in any manner to perform that process.

MPEP Section 2106. Section 2106 continues, on page 2100-14 to describe the

subject matter that should be recited in the patent specification to support a reading that the

computer-related invention claims encompass any and every computer implementation of a

process. Specifically, the MPEP recites "[t]he disclosure [should state] . . . that it would be a

matter of routine skills to select an appropriate conventional computer system and implement

the claimed process on that computer system. The disclosure does not have specific disclosure

that correspond to the ... limitation[s] recited in the claim (i.e., no specific software or logic

circuit)."

Applicants respectfully contend that claims 17-22 and 32-35 are allowable

pursuant to MPEP sections 806.05(e) and 2106. In those sections it states that "[i]n

applications claiming inventions in different statutory categories, only one-way distinctiveness

is generally needed to support a restriction requirement. (See MPEP § 806.05(e)).

Specifically, were it shown "(1) that the process as claimed can be practiced by another

materially different apparatus or by hand, or (2) that the apparatus as claimed can be used to

practice another materially different process", then restriction is proper. (See id., emphasis in

the original). However, pursuant to MPEP section 2106, were an apparatus claim to

encompass "any and every computer implementation of a process, when read in light of the specification, the claim should be examined on the basis of the underlying process." (See MPEP § 2101, emphasis in the original). That section continues with an example of such an apparatus claim. Such a claim will:

"(A) define the physical characteristics of a computer or computer component exclusively as functions or steps to be performed on or by a computer, and

(B) encompass any and every product in the state class (e.g., computer, computer-readable memory) configured in any manner to perform that process."

Section 2106 continues, on page 2100-14 of the MPEP to describe the subject matter that must be recited in the patent specification. Specifically, "[t]he disclosure [should state] . . . that it would be a matter of routine skills to select an appropriate conventional computer system and implement the claimed process on that computer system. The disclosure does not have [to state] specific disclosure that correspond to the ... "means" limitation[s] recited in the claim (i.e., no specific software or logic circuit)."

In the instant application, claim 17 and new claim 35 define physical characteristics of computer components as functions performed by a computer. In addition, the specification does not include specific software, i.e., programming code recited to define the aforementioned functions. Rather, in the text page 7, lines 5-11, it is stated that "elements in HDP-CVD system 5 are all controlled by a processor 31...[which] operates under control of a computer program stored in a memory 33." The aforementioned text indicates that it would be a matter of routine skill to select an appropriate conventional computer system and implement the claimed process on a computer system. Thus, the system defined by claim 17 and the computer readable storage medium defined by claim 35 encompass any and every product in the class (e.g., computer, computer-readable memory) configured in any manner to perform the process defined by allowed claim 33 of the parent application. As a result, since the patentability of claims 17,20 and 35 depends on the patentability of the underlying process claim and since the underlying process claim has been deemed allowable in the parent application, Applicants submit that claims 17, 20 and 35 are allowable over the prior art of record. (See MPEP § 2106). Furthermore, dependent claims 18-22 and 32-34 depend from claims 17 and 20 and recite additional features therefore. Thus, for the same reason set forth
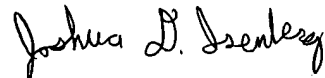
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with respect to claims 17 and 20, Applicants submit that these dependent claims are also allowable.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,

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